IX HOUSE AND RISER

Q. PLEASE DESCRIBE THE IMPORTANCE OF SETTING HOUSE AND RISER RECURRING AND INTERCONNECTION RATES PROPERLY.

A. Rates must be set properly in order to ensure facilities-based competition will occur. This goal is highlighted in the following statements from the FCC's UNE Remand Order[72] regarding subloop unbundling, which encompasses the unbundled House and Riser element.[73]

Paragraph 205 states, "We find that the lack of access to unbundled subloops materially diminishes a requesting carrier's ability to provide service that it seeks to offer. We also conclude that access to subloop elements is likely to be the catalyst that will allow competitors, over time, to deploy their own complementary subloop facilities, and eventually to develop competitive loops." Paragraph 216 specifically mentions multi-dwelling units, saying that, "In particular, a facilities-based provider's ability to offer service in a multi-unit building or campus may be

[72] Third Report and Order and Fourth Further Notice of Proposed Rulemaking, released 11/5/1999, FCC 99-238

[73] Third Report at paragraph 206.

severely impaired if it must install duplicative inside wiring." Also, at paragraph 219, the FCC states that, "Access to unbundled subloop elements allows competitive LECS to self provision part of the loop, and thus, over time, to deploy their own loop facilities, and eventually to develop competitive loops. If requesting carriers can reduce their reliance on the incumbent by interconnecting their own facilities closer to the customer, their ability to provide service using their own facilities will be greatly enhanced, thereby furthering the goal of the 1996 Act to promote facilities-based competition."

On the heels of BA-NY'S Section 271 approval, it is now absolutely critical to ensure that the terms, conditions and rates for access to BA-NY's House and Riser element are set appropriately. Failure to do so would harm competitors. As demonstrated below, BA-NY's claimed cost for House and Riser exceed forward-looking economic costs and otherwise conflict with the FCC's UNE Remand Order. Accordingly, BA-NY's House and Riser proposals should be rejected.

Q. PLEASE SUMMARIZE BA-NY'S PRESENTATION OF ITS PROPOSED HOUSE AND RISER RATES.

A. BA-NY has proposed two categories of rates associated with leasing and interconnecting to the House and Riser element. These are:

- House and Riser Access Service, which is the House and Riser element itself that CLECs can lease.
- House and Riser Connection Service, which provides for additional equipment supposedly required for connection between a carrier's link and BA-NY's House and Riser element under two different scenarios. Cross connection charges would be also be applied to connect the CLEC's link to the new equipment, and the new equipment to the existing House and Riser equipment.

We have depicted BA-NY's proposed House and Riser construct in ATTACHMENT 13 to this reply testimony. At this point, it is critical for the reader to understand that under BA-NY's proposal, in order for a CLEC to lease the House and Riser element, each of the rates above would be applied.

Q. PLEASE SUMMARIZE YOUR OVERALL ASSESSMENT AND RECOMMENDATIONS ON BA-NY'S HOUSE AND RISER COST STUDY.

A. BA-NY's House and Riser cost study and proposals should be rejected. First, BA-NY's recurring cost studies for the

"House and Riser Access Service" produce cost estimates that are several factors higher than the cost estimates that BA-NY developed roughly three years ago and BA-NY has provided no testimony attempting to justify why its claimed costs are so much higher than its earlier cost claims. Second, BA-NY's claimed costs are based on a misrepresentation of equipment capacity that resulted in inflated claimed investments. Third, BA-NY's House and Riser cost study is not a forward-looking cost study that contemplates a single point of interconnection for multiple carriers. Consequently, a CLEC's costs to interconnect to the House and Riser element are substantially greater than BA-NY's costs for connecting to the House and Riser element. This is demonstrated in Attachment 13.

Q. YOU STATE THAT BA-NY'S CLAIMED "HOUSE AND RISER ACCESS SERVICE" COSTS PRESENTED HERE ARE FACTORS HIGHER THAN WHAT IT CLAIMED THREE YEARS AGO. PLEASE EXPLAIN.

A. A comparison of BA-NY's cost study filed 2/7/00 with the cost study filed by C.G. Coates in Case 95-C-0657, et al. shows this dramatic jump in claimed costs. As the table in ATTACHMENT 14, page 1 of 2, shows BA-NY now claims that the variable (per pair per floor) element cost component for House and Riser in zone 1 is roughly 3 times the cost

claimed in 95-C-0657, et al. BA-NY also now claims that the total fixed element cost in zone 1 is roughly 1.58 times the cost claimed in 95-C-0657, et al.

Q. WHAT STUDY INPUTS HAVE CHANGED TO PRODUCE SUCH DRAMATIC INCREASES IN BA-NY'S CLAIMED COST FOR "HOUSE AND RISER ACCESS SERVICE"?

A. Two input variables have changed. The first is the utilization factor. In its 1997 cost study, BA-NY claimed that the proper utilization factor to be used for House and Riser Cable is 65%. On page 22, lines 6 through 10 of his 1/9/97 testimony for BA-NY in 95-C-0657, et al., Mr. Coates explained that, "The construct used for the House and Riser element reflects the latest designs from the Company's Engineering Department. Investments were identified using the latest available prices and forward-looking utilization factor. Utilization factors have been previously described in Mr. Gansert's testimony. For the House and Riser study, I used the Intra-Building utilization factor of 65%." In it current cost study, however, BA-NY uses a utilization factor of 40% for house and riser. Yet, BA-NY has provided no justification for the reliance on a completely different basis for determining the appropriate utilization factor. Page 425 of its Panel Testimony revised 2/24/00, states

only that, "Per unit investments were calculated by dividing the total investments associated with House and Riser elements by a utilization of 40%. This utilization factor is the same as that which is used for the Loop distribution plant." BA-NY's purported reliance upon its loop study distribution cable utilization proposal is without merit. In fact, utilization factors for multi-dwelling units would be expected to have a higher utilization rate than for distribution cable because the serving area is of fixed size.

The second input change is the investment inputs produced in part from BA-NY's ECRIS database. As ATTACHMENT 14, page 2 of 2, to this reply testimony shows for zone 1, the variable (per pair per floor) investment input is 1.52 times higher than BA-NY's 1997 inputs, while the fixed investment inputs are 1.17 times higher. While we would expect some increase in labor rates over the period, we would also expect that productivity increases over the period would offset any labor cost increase. Nevertheless, BA-NY has presented no explanation as to why its claimed the investments are between 1.17 and 1.52 times higher than its earlier claims. Note, however, that when we restate BA-NY's cost study, we do not modify these inputs even

though we believe they are highly suspect for the reasons set forth above.

Q. HOW HAS BA-NY SUBSTANTIALLY INFLATED ITS CLAIMED INVESTMENT FOR BACKBOARDS?

A. BA-NY's cost study assumes that a backboard receives only two blocks and, therefore, has a maximum capacity of 100 pairs of cable. In fact, however, a backboard receives four blocks and has a maximum capacity of 200 pairs of cable. BA-NY's misstatement of its investment for backboards unjustly increases its proposed rates for both House and Riser Access Service and House and Riser Connection Service.

In its the workpapers underlying its House and Riser Access Service cost claims, Access Service (see BA-NY's 2/7/2000 Panel Testimony Workpaper A-2, Section 1) BA-NY shows that six (6) KRONE DISC 50/66 BLOCKS are placed for every three (3) 183A1 Backboards, assuming that one backboard can receive only <u>two</u> blocks. In response to ATT-NYT-393 in case 95-C-0657, however, BA-NY states that, "BB 183A1 - Consists of four plastic 89B brackets secured by screws. Mounts up to <u>four</u> 66-type blocks which are ordered separately." [emphasis added]. In addition, ATTACHMENT 15

to this reply testimony is a product description sheet from the manufacturer of the 183A1 backboard, which clearly shows that the 183A1 backboard can receive four 66-type blocks and has a capacity of 200 pairs of cable. BA-NY's misrepresentation of the capability and capacity of the backboards used in its study has effectively doubled its claimed investment and per pair costs for backboards.

BA-NY's misstatement of backboard capacity is further magnified with respect to its claimed upper floor terminal investment. BA-NY's upper floor network design for House and Riser calls for one (1) 183A1 Backboard to mount only one (1) 50/66 DISC KRONE block. This means that even if all 50 pairs on the upper floor were purchased by a CLEC, only 25% of one of the upper floor backboards would be fully utilized. BA-NY further inflates its claimed investment by applying a utilization factor of 40%, implying that one pair of House and Riser is required to pay for 10 times that pair's share of an upper floor backboard (1/4 of backboard used by 50 pairs divided by 40% utilization).

Q. WHAT MODIFICATIONS SHOULD BE MADE TO BA-NY'S "HOUSE AND RISER ACCESS SERVICE" COST STUDY SHOWN IN ITS WORKPAPER PART A-2, SECTION 1?

A. First, all utilization rates should be set to 56%, consistent with our recommendation for distribution plant utilization. As noted above, utilization factors for multi-dwelling units would be expected to have a higher utilization rate than for distribution cable because the serving area is of a fixed size. Our modifications to BA-NY's study are therefore conservative as we have not increased the utilization factors for House and Riser to account for this fact. Second, to correct for BA-NY's misrepresentation of backboard capacity, the basement backboard investment figure should be halved and the upper floor backboard investment figure should be quartered. Third, corrected ACFs discussed elsewhere in this reply testimony should be used. These, and other adjustments to BA-NY's cost study explained below, are presented in our revised House and Riser workpapers attached to this reply testimony as ATTACHMENT 16.

Q. WHAT IS BA-NY'S PROPOSED HOUSE AND RISER CONNECTION SERVICE?

A. As noted above, BA-NY's describes the "connection service" as providing a connection between a carrier's link and BA-NY's House and Riser element. BA-NY states that the rate for connection service will be either, A) the 50-Pair Terminal charge if the CLECs loop is "within cross connect range to the Company's House and Riser terminations," as explained on page 427 of its Panel Testimony revised 2/24/00, or B) the Building Setup Charge if the CLECs loop is "beyond cross connect range to the Company's House and Riser facilities," also explained on page 427. BA-NY does not define what distance is within cross connect range.

Q. DO YOU AGREE WITH BA-NY'S PROPOSED ASSESSMENT OF ITS "HOUSE AND RISER 50-PAIR TERMINAL" CHARGE FOR SCENARIO A?

A. No. BA-NY's proposed charge conflicts with the recent FCC remand order and should be rejected. BA-NY states that where the CLEC is within cross connection distance, BA-NY would propose to charge the CLEC for ½ of a backboard, a 50 pair block, and connections to that block. (These are the components of the 50 Pair Terminal charge shown on BA-NY's Workpaper Part A-2, Section 2). To support its rate proposal, BA-NY asserts that, "A terminal block constructed

for 50 pair accessibility must be installed in order to provide a designated interconnection location for House and Riser and also to provide a test point for service surveillance and maintenance." [emphasis added] (See Page 427 of BA-NY's Panel Testimony revised 2/24/00). This additional terminal is shown as point II.A shown in ATTACHMENT 13.

BA-NY's proposed requirement to build an additional block flatly conflicts with the FCC's UNE Remand order that calls for a single point of interconnection. "Although we do not amend our rules governing the demarcation point in the context of this proceeding, we agree that the availability of a single point of interconnection will promote competition. To the extent there is not currently a single point of interconnection that can be feasibly accessed by a requesting carrier, we encourage parties to cooperate in any configuration of the network necessary to create one. If parties are unable to negotiate a reconfigured single-point of interconnection at multi-unit premises, we require the incumbent to construct a single point of interconnection that will be fully accessible and suitable for use by multiple carriers." [Emphasis added]. FCC's UNE Remand Order, at ¶226. BA-NY's proposal, in contrast,

calls for additional equipment to be built and paid for by CLECs, while continuing to allow BA-NY to have a direct connection to the existing basement terminals. Such an approach is not competitively neutral and does not satisfy the FCC requirement for a single point of Interconnection.

We are unable to correct this proposed rate element as presented because the rate element's existence is predicated on the assumption that CLECs would have a different point of interconnection than BA-NY, an assumption that conflicts with the FCC's requirements.

Q. DO YOU AGREE WITH BA-NY'S PROPOSED "HOUSE AND RISER BUILDING SETUP" CHARGE FOR SCENARIO B?

A. No. This proposed charge also conflicts with the FCC's UNE Remand Order and should be rejected. BA-NY proposes that where the CLEC is outside of cross connection distance and wants to extend its facilities so that they may be cross connected to BA-NY's House and Riser element, the following charges should apply: two (2) fifty pair terminals and a fifty (50) pair allocation of fifty (50) feet of three hundred pair metallic horizontal intra-building cable (See Page 428 of the Panel Testimony revised 2/24/2000).

There are several problems with BA-NY's proposal. First, the proposed charge assumes that 50 feet of cable is required to connect the CLEC's loop to the new basement terminal. This cannot be true in all cases. Second, BA-NY has provided no indication of when this rate element would apply. It merely states that this rate would apply in cases where the CLEC is "outside of cross connection distance", and BA-NY presumably intends to define this as narrowly as possible. Third, this rate suffers from drastically underutilized backboard capacity as does the rates for the 50-pair terminal and House and Riser Access Service Charges. Finally, the rate conflicts with the UNE Remand Order, which calls for a single point of interconnection.

We are also unable to correct this proposed rate element as presented because the rate element's existence is also predicated on the assumption that CLECs would have a different point of interconnection than BA-NY, an assumption that conflicts with the FCC's requirement.

Q. PLEASE COMMENT ON BA-NY'S PROPOSAL FOR CROSS CONNECTIONS TO BE CHARGED ON A TIME AND MATERIALS BASIS.

A. The service should not be charged on a time and materials basis. Charging for cross connections on a T&M basis would not prevent BA-NY from engaging in anti-competitive behavior such as performing the work in an inefficient manner to drive up costs and dissuade facilities-based competition.

What concerns us is BA-NY's general conduct in proposing and setting UNE rates. In 95-C-0657, BA-NY proposed to charge for inflated NRCs. The commission ruled that those NRCs should be reduced substantially and BA-NY complied. In this case, BA-NY has again introduced substantially inflated NRCs, attempting to overturn past commission rulings.

We can only imagine what BA-NY's behavior will be in the field, outside of intense regulatory scrutiny.

Q. HOW WOULD YOU FIX THE ANTICOMPETITIVE, COSTLY WEB OF UNSTRUCTURED CHARGES THAT BA-NY PRESENTS FOR ITS "HOUSE AND RISER CONNECTION SERVICE"?

A. To correct BA-NY's "House and Riser Connection Service" cost study, BA-NY's 50-Pair Terminal, Building Setup, and Cross Connection rates and proposals should be rejected since BA-NY's approach fails to contemplate a single point of interconnection and it includes costs for additional equipment (see point II on ATTACHMENT 13) that only CLECs would have to pay for. Any additional costs that allow the interconnection of CLECs to BA-NY's House and Riser element should be included in the House and Riser Access Service rates previously described.

AT&T proposes to develop House and Riser rates based upon an interim costing approach that presumes the existence of multiple carriers, has a single point of interconnection, and does not disadvantage CLECs by requiring them to pay for additional unneeded equipment. The costing approach should be interim because we have not yet had the opportunity to collaborate with BA-NY on an industry solution for a single point of interconnection approach.

Our costing approach is shown on ATTACHMENT 17 to this reply testimony.

As the diagram depicts, we have corrected backboard investments to adjust for BA-NY's capacity errors, and we have modified the utilization rates. Our costing approach also corrects BA-NY's anticompetitive proposal by eliminating additional equipment and cross connections that CLECs would be required to pay for, but BA-NY would not. The diagram shows that BA-NY and the CLECs incur cross connection charges to interconnect to the single point of interconnection. As a matter of policy, CLECs should be allowed to cross connect directly to existing BA-NY basement terminal equipment. We recognize that in some cases, BA-NY may be required to perform this function.

The diagram shows the same type equipment, namely the 183A1 Backboard and the KRONE DISC 50/66 blocks used in BA-NY's House and Riser Access Service cost study, to develop costs for interconnection. Please note, however, that in order to actually implement the single point of interconnection approach, replacement equipment or additional equipment may be required. Whatever the physical solution, additional charges could legitimately be included in the fixed portion

of the House and Riser Access Service cost to accommodate added functionality of being able to interconnect multiple CLECs at a single point. On an interim basis, therefore, we recommend that basement terminal costs be increased by 10% to account for these potential additional costs. This inclusion of additional costs does not mean that we believe additional equipment is required for CLECs to interconnect to BA-NY in most cases, but is included only to account for the possibility that additional equipment may be required. This approach differs dramatically from BA-NY's costing approach that calls for CLECs to pay for fully duplicative, extremely underutilized equipment, as well as for cross connections on a time and material basis for every interconnection.

Q. BASED ON ALL OF YOUR RECOMMENDATIONS, CAN YOU COMPARE YOUR PROPOSED HOUSE AND RISER ELEMENT RATES TO THOSE PROPOSED BY BA-NY?

A. Yes, ATTACHMENT 18 to this reply testimony presents all of our modifications to BA-NY's House and Riser Access Service Workpapers and Exhibits. With our corrections and adjustments to BA-NY's cost study, the Zone 1A, Fixed rate element changes from BA-NY's proposed rate of $1.35 to $.61. The Variable rate changes from BA-NY's proposed

rates of $.03 per pair per floor to $.01. Note that because we continue to rely on ECRIS investment figures that are highly suspect, and because we have not set utilization levels higher than 56%, our recommended variable rate element is no lower than what BA-NY proposed 3 years earlier. We ask the commission to investigate whether further modifications in ECRIS investments and utilization factors should be made. As stated earlier, we have not modified BA-NY's proposed 50-Pair Terminal and Building Setup charges since these proposed charges should be rejected outright.

Q. DOES THE RECENTLY RELEASED FCC STATEMENT OF ITS CONDITIONS IMPOSED ON THE PENDING BELL ATLANTIC/GTE MERGER RELATE IN ANY MATERIAL WAY TO YOUR RECOMMENDATIONS?

A. Yes. Although we have not yet had an opportunity to fully analyze the FCC's merger conditions and additional detail concerning those conditions likely will be forthcoming, the conditions apparently relate directly to our recommendations. For example, as a condition of the GTE/BA merger, the FCC states at http://www.fcc.gov/ba_gte_merger/conditions.txt (see ATTACHMENT 19 to this reply testimony) that, "Bell Atlantic/GTE will conduct a trial that will provide CLECs

with access at a single point of interconnection to cabling owned or controlled by Bell Atlantic/GTE in multi-tenant residential and business properties. Bell Atlantic/GTE will design and install new cabling owned or controlled by Bell Atlantic/GTE so that it can be accessed at single point of interconnection at a minimum point of entry. This condition will provide additional competition in the provision of local service to multi-unit properties." Consequently, the merger conditions provide more of an indication that Bell Atlantic will have to develop a technical solution for a single point of interconnection in those cases where one does not exist today.

Q. WHAT ARE YOUR RECOMMENDATIONS REGARDING BA-NY'S PROPOSED HOUSE AND RISER ASSET INQUIRY CHARGE?

A. BA-NY's proposed House and Riser Asset Inquiry charge should be rejected. In its response to ATT-NYT-428 in Case 95-C-0657, BA-NY states, "NYT does not keep an inventory of its house and riser facilities." CLECs should not have to pay for BA-NY to manually check whether it does or does not own its own equipment. CLEC's should also not pay for BA-NY to develop a database of this information to correct for current deficiencies in its asset tracking systems. In short, the proposed charge plainly does not reflect

forward-looking economic costs since it is based upon BA-NY's embedded inefficiencies.

X DERIVED RATES

Q. PLEASE COMMENT ON BA-NY'S APPROACH TO CALCULATING ITS PROPOSED DERIVED RATES, WHICH ARE ADDRESSED IN SECTION XIII OF BA-NY'S PANEL TESTIMONY.

A. Many of the derived rates that BA-NY has proposed have been crafted in a manner that unreasonably supports BA-NY's financial interest at the expense of CLECs. BA-NY's proposals are also based upon methodological approaches that are without merit. Consequently, BA-NY's proposals should be rejected. The proposed rates that should be rejected include: Meet Point A rate; Unbundled Telephone Company Reciprocal Compensation Charge ("UNRCC") (this rate is developed based on the same formula used to calculate the Meet Point A rate); Meet Point B rate; and Unbundled CLEC Reciprocal Compensation charge ("UCRCC"). We address below the problems associated with BA-NY's proposals as well as the required changes.

Q. WHAT ARE YOUR CONCERNS AND RECOMMENDATIONS REGARDING BA-NY'S PROPOSED MEET POINT A, AND UNBUNDLED TELEPHONE COMPANY RECIPROCAL COMPENSATION CHARGES ("UTCRC")?

A. BA-NY is attempting -- without justification -- to introduce un-needed complexity in its rate structure for the purpose of reducing its payments to CLECs for reciprocal compensation. BA-NY has based these proposed rates on a narrowly defined proposed switch usage rate that BA-NY is calling the "Local Switch Usage Rate Without Features (terminating)". This narrowly defined rate is lower than BA-NY's proposed average switch usage rate, and we presume that BA-NY is only using it to develop these reciprocal compensation rates because BA-NY is a net payer of Meet Point A and Meet Point B reciprocal compensation. As explained above in the switching costs section of this reply testimony, no basis exists to consider switch costs in fundamentally different ways depending upon whether the context is switching UNEs or reciprocal compensation. Consequently, we recommend that the unaltered, average local switching rate -- after making the required adjustments to BA-NY's cost study -- be used to develop the Meet Point A and UTCRC derived rates instead of BA-NY's

proposed "Local Switch Usage Rate Without Features (terminating)" rate.

Q. WHAT ARE YOUR CONCERNS AND RECOMMENDATIONS REGARDING BA-NY'S PROPOSED MEET POINT B RATE?

A. We have similar concerns as we expressed for the proposed Meet Point A and UTCRC rate. Accordingly, we recommend that an average local switching rate -- after making the required adjustments to BA-NY's cost study -- should be used instead of BA-NY's proposed "Local Switch Usage Rate Without Features (terminating)" to derive the Meet Point B rate.

Q. PLEASE EXPLAIN BA-NY'S PROPOSED UNBUNDLED CLEC RECIPROCAL COMPENSATION CHARGE ("UCRCC") AND WHETHER IT IS APPROPRIATE.

A. BA-NY's proposed rate should be rejected since it is based upon BA-NY's embedded expenses. BA-NY's proposed rate is similar to its Unbundled Telephone Company Reciprocal Compensation (UTCRC), but would compensate BA-NY when a CLEC-owned switch, rather than a BA-NY-owned switch terminates the call. Page 291 of BA-NY's Panel Testimony, revised 2/24/00 describes that, "The UCRCC applies when a UNE switching, interoffice, shared transport, local or toll call is delivered to a CLEC POP. The UCRCC compensates BA-

NY for the reciprocal interconnection charges that are levied upon BA-NY when a UNE switching local or toll call is delivered to a CLEC POP for delivery to a customer of that terminating CLEC." The development of the rate is explained also on page 291 where BA-NY states that, "BA-NY invoices for the period September 1999 through December 1999 show that BA-NY paid an average of $0.0072526/mou for each minute that was delivered to a facility based CLEC. This is the rate that BA-NY proposes for the UCRCC rate element." Thus, BA-NY's proposed rate is based on its embedded expenses. BA-NY, however, has not made any attempt to explain that its embedded expenses should serve as the basis for developing forward-looking costs. In fact, BA-NY's response to ATT-BA-155 shows that its embedded expenses serve as a poor surrogate for going forward expenses. During the four month period that BA-NY measured expenses, the composite rate dropped from $.0074 in September to $.0072 in December.

Additionally, assuming that the Commission will order switch usage rate reductions since current switch UNE rates substantially exceed forward-looking economic costs, the amount that BA-NY pays to CLEC's for reciprocal compensation can be expected to decline further, since BA-

NY has claimed that it is commonly the case that CLECs concur in BA-NY's tariffs, or enter into interconnection agreements adopting BA-NY's rates. (See BA-NY Panel Testimony page 280 revised 2/24/2000). All CLECs that concur fully in BA-NY's tariff would charge BA-NY only the reciprocal compensation Meet Point A rate for call termination through their switch. BA-NY's cost for sending calls to concurring CLECs would therefore be the Meet Point A rate of less than $.0035/MOU (BA Panel Testimony, Exhibit Part J, Lines 220-222, 2nd Revision 5/19/00), instead of $.0072526/MOU.

BA-NY has also failed to address how the development of its proposed rate in any way matches BA-NY's proposal for how it would apply the rate. BA-NY's response to ATT-BA-156 sets forth BA-NY's intent on how it would charge the rate. On the first table in its response, BA-NY indicates that for a Local or IntraLATA Toll Interswitch call, BA-NY would charge this rate where the call terminates through a CLEC switch. Yet, BA-NY developed the proposed rate based upon aggregate level data that may not represent this narrow application of the rate.

For all of the above reasons, BA-NY's rate proposal should be rejected. We propose that BA-NY be allowed to charge the originating CLEC only the Meet Point A rate (properly adjusted in the manner shown above) for calls that are terminated by another CLEC's switch. In this way, BA-NY will not recover its embedded costs, but those costs that are most likely to occur in a forward-looking environment.

XI DAILY USAGE FILE, CUSTOMER SERVICE RECORD RETRIEVAL AND OS/DA PROPOSAL

Q. PLEASE COMMENT ON BA-NY'S PROPOSED DAILY USAGE FILE RATE.

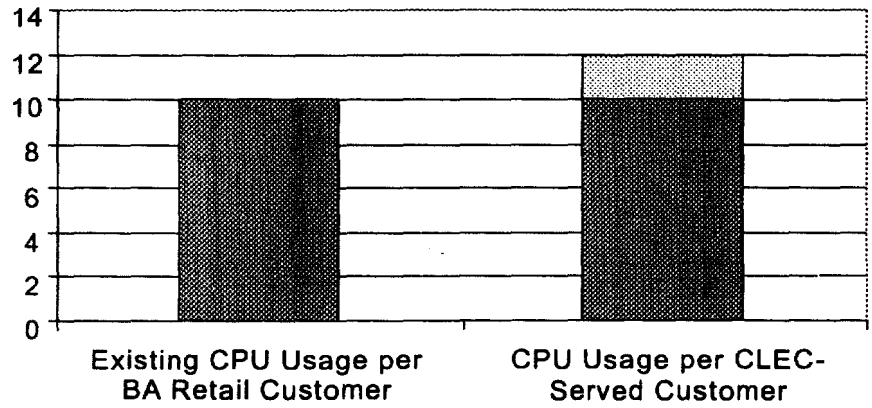
A. BA's proposed Daily Usage File rate is presented in EX_PARTF-2_SEC1_DUF.xls and contains three component rates - processing costs per record, transmission costs per record and product management costs per record. BA-NY's proposed rates do not reflect forward-looking economic costs and should be rejected.

The method that BA-NY uses to calculate the processing cost portion of it proposed rate is suspect since it does not properly address whether the costs it seeks to impose on CLECs are truly incremental to those that it will already recover through UNE recurring rates. BA-NY describes its

costing approach as having taken specific measurements of CPU usage for "specific routines designed to identify and process the call records of carriers other than BA-NY" (see Panel Testimony Page 370 revised 2/24/00). Yet, BA-NY has made no showing that this CPU usage is in any way additive to the CPU usage that is required today for its own customers.

To make the point clearer, assume that BA-NY serves 1 customer and must process that customer's calls using CPU time. The cost of servicing that customer would be included in the recurring cost for UNEs as BA-NY has loaded onto UNEs costs for General Purpose Computers. Now assume BA-NY's only customer migrates to a CLEC and is no longer served by BA-NY on a retail basis, but on a wholesale basis. BA-NY will continue to process that customer's calls and may be required (although this is not clear) to use more CPU usage to process that customer's calls. To properly determine the incremental cost of servicing the customer under a UNE environment, however, BA-NY must subtract the total CPU usage of when the customer was served by BA-NY from the total CPU usage when the customer is now serviced by the CLEC and not BA-NY. If BA-NY simply adds up the total CPU usage for the customer served by the

CLEC, it will have effectively double counted its CPU processing costs. The double count is shown visually in the table below as the entire column on the left. (Note that data shown is fictional and for demonstration purposes only.)



Because BA has made no showing that CPU usage would be any greater when its customers are served by CLECs, rather than by BA-NY itself, the processing cost per record component of the Daily Usage File rates must be eliminated. This correction is shown on ATTACHMENT 20 to this reply testimony.

Even if it was determined that some amount of record processing should be included in this rate element, the

costs for record processing should be based on forward-looking cost estimates, not embedded costs estimates. BA-NY states on page 370 of its Panel Testimony revised 2/24/00 that it relies on a cost per million service units as had been determined in Module 1 of this case." If by "Module 1" BA means the case that was litigated in 1996, then BA's claimed cost per service unit is a fully embedded, inappropriate cost and would have to be significantly reduced in order to account for declining CPU processing costs.

Q. PLEASE COMMENT ON BA-NY'S PROPOSED CUSTOMER SERVICE RECORD RETRIEVAL CHARGE (CSRR).

A. We have similar concerns to those expressed above for the record processing portion of the Daily Usage File. Since BA-NY has failed to demonstrate the absence of double recovery of costs, BA-NY's rate proposal should be rejected.

BA-NY explains its proposed rate on page 372 of its Panel Testimony revised 2/24/00 by stating, "The customer service record functionality provides resellers and UNE purchasers with the ability to electronically request and view the customer service record of end users. The service record

reflects the most recent, completed service order activity and identifies the services and equipment billed to the customer." Yet, BA has made no showing that the rate at which CLECs request and view the customer service record of end users will be any greater than the rate at which BA's own retail operations does. This proposed rate should, therefore, be rejected. Moreover, in its response to ATT-BA-146, BA-NY's states that "No computers were purchased for the sole use of the CSR functionality addressed on Page 355 of BA-NY's 2/7/00 Panel Testimony, as that would have been a grossly inefficient means of providing the requisite functionality. CSR is just one of the many applications which operate on the computers in the data centers."

Q. PLEASE SUMMARIZE YOUR ASSESSMENT AND RECOMMENDATIONS REGARDING BA-NY'S PROPOSAL FOR OBTAINING PRICING FREEDOM FOR OFFERING OS/DA SERVICES.

A. BA-NY argues that pricing freedom should be given in order to allow BA-NY to compete with other carriers' OS/DA offerings. BA-NY's proposal is without merit and should be rejected. BA-NY's logic for obtaining pricing freedom is backward. BA-NY argues that it should have the freedom to increase prices above TELRIC levels to compete with other carriers, yet competition usually drives down prices, not

up. BA-NY is effectively only asking the commission for pricing freedom to allow it to over-recover costs.

XII BA-NY'S CLAIMED NON-RECURRING COSTS

Proper Definition Of Non-Recurring Costs

Q. PLEASE DEFINE NRCS.

A. Non-recurring costs are those one-time costs associated with the process by which CLECs order particular UNEs from BA-NY (the "service order" process) and by which BA-NY actually installs and activates those UNEs (the "service provisioning" process).

Q. ARE ALL SERVICE ORDER ACTIVITIES CONSIDERED NON-RECURRING COSTS?

A. No. It is possible that during the course of provisioning the request of a customer (i.e., the CLEC) BA-NY will have to perform activities that benefit its network. Therefore, those activities that provide this benefit are properly classified as recurring cost activities. As an example, if an activity can be reused to provide service to multiple or subsequent customers without change, it is properly classified as a recurring cost activity and should not be included in a study of NRCs. To clarify this example,